

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:06-cr-179-01

v.

HONORABLE PAUL L. MALONEY

ABEL LOPEZ,

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Abel Lopez has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

At the time of his sentencing, the defendant was held accountable for 8,550 kilograms of marijuana equivalent and the calculated guideline range was 168-210 months (offense level 33 and criminal history category III). He received the benefit of a downward departure pursuant to a U.S.S.G. § 5K1.1 motion for substantial assistance and was sentenced to 144 months in custody.

However, the new calculation does not result in a lower guideline range. Using the newly-calculated marijuana equivalency of 6,997 kilograms, the calculated amended guideline range is still 168-210 months (offense level 33 and criminal history category III). Accordingly, the amendments are of no assistance to the defendant. Therefore,

IT IS HEREBY ORDERED that Defendant Abel Lopez's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 412) is **DENIED**.

Date: July 13, 2012

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge